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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/679,210	10/04/2000	Donald F. Gordon	19880-28.1	8170

26291 7590 09/21/2005

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EXAMINER

SHANG, ANNAN Q

ART UNIT	PAPER NUMBER
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2617

DATE MAILED: 09/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	Application No. 09/679,210	Applicant(s) GORDON ET AL.	
	Examiner Annan Q. Shang	Art Unit 2617	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 August 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: _____.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s) _____.
13. ☐ Other: _____.


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SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

Continuation of 11. does NOT place the application in condition for allowance because: Applicant argues that "...the combination of Eyer242/Hendricks/Chaney/Eyer753 fails to teach or suggest the claimed session manager coupled to a transport stream generator and the transport stream generator coupled to encoding units." "...Eyer242 fails to disclose the claimed session manager coupled to a transport stream generator and the transport stream generator coupled to encoding units." and further states that "The Office Action erroneously states that the claimed encoding units are met by Eyer242's MPEG-2 encoders 1-N 220, 230, the claimed transport stream generator is met by Eyer242's MUX/MOD 250, and that the claimed session manager is met by Eyer242's IPG Translator (IPGT) 220 and Subscriber Authorization Center (SAC) 240. The problem is that neither IPGT 220 nor SAC 240 are coupled to MUX/MOD 250. Those elements are shown in figure 2 and described in col. 7, line 66 to col. 8, line 32. Figure 2 shows only the lines from the MPEG-2 encoders 1-N 220, 230 to MUX/MOD 250. Figure does not show any lines from IPGT 220 or SAC 240 to MUX/MOD 250.

In response, Examiner disagrees. Examiner notes applicant's arguments, however, Eyer et al (6,401,242), the primary reference of record, disclose and Uplink Site with various processing elements (IPG Data Server 210, IPG Translator 225, MPEG-2 Encoder 1-N, SAC 240 MUX/MOD 250 and Transmitter 110) coupled to each other in a local area network (LAN), see figure 2 and col. 7, line 66-col. 8, line 32. Furthermore IPG Translator (Session Manager) is coupled to MUX/MOD via MPEG-2 Encoder 1-N. Examiner, maintains the Eyer's Uplink sites and the various elements are coupled to each other and U.S.C 103(a) rejection under Eyer et al in view of Hendricks et al (6,463,585) and further in view of Chaney et al (5,515,106), is proper and maintained, since the rejection meets all the claimed limitations.

In response to applicant's argument's of independent claim 20, Eyer further teaches that IPG Translator 225 receives configuration data, which includes associated parameters such as time slot size, bit rate, look-ahead time, data link controller address, group ID and group name, region map and ID, region name, etc., and transmits continuous flow of data to MPEG-2 encoders which also receives entitlement management message (EMM) data from Subscriber Authorization Center (SAC) 240, col. 4, line 64-col. 5, line 11, col. 6, line 1-18 and col. 8, lines 6-28. As indicated in the office action, Eyer fails to explicitly teach monitoring demands from a plurality of terminals and comparing the demands from the plurality of terminals and dynamically adjusting the number of transport streams to be transmitted to the plurality of terminals based on the result, a deficiency in Eyer, which is disclosed in Hendricks et al (6,463,585), where a Headend controller or operation center monitors demands from a plurality of terminals, and dynamically generates on the fly menus and adjusts the number of transport streams to be transmitted to meet the plurality of demands of the IPG based on the users interaction to the IPG (fig. 17, col 16, lines 55-67, col. 19, lines 49-62, col. 20, lines 10-18 and lines 36-40).

Hence Examiner maintains the U.S.C 103(a) rejection, Eyer in view of Hendricks and further in view of Chaney, of claims 1-15 and 18-23 is proper and maintained, since the rejection meets all the claimed limitations. Examiner further maintains the U.S.C. 103(a) rejection, Eyer in view of Hendricks and Chaney and further in view of McLaren (5,867,208), of claims 16 and 17 is proper and maintained, since the rejection meets all the claimed limitations. The rejections discussed in the last Office Action is, hereby being maintained and made FINAL